IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN
&
THE HONOURABLE MR. JUSTICE V.K.MOHANAN

TUESDAY, THE 18TH SEPTEMBER 2007 / 27TH BHADRA 1929

WP(Crl.).No. 211 of 2007(S)

PETITIONER:

BABU, S/O. SHRI ANIKUTTY,
AGED 29 YEARS, SAGUVARMEDU, KALPATHY P.O.,
PALAKKAD-678003.

BY ADV. SRI.B.N. SHIVA SHANKER

RESPONDENTS:
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1. THE CIRCLE INSPECTOR,
TOWN NORTH POLICE STATION, PALAKKAD.

2. R. ASKAR ALI, S/O. NOT KNOWN,
AGE NOT KNOWN, RESIDING AT SAGUVARMEDU,
KALPATHY P.O., PALAKKAD-678003.

3. RABIYA A., D/O. R. ASKAR ALI,
AGED 19 YEARS, RESIDING AT SAGUVARMEDU,
KALPATHY P.O., PALAKKAD-678003.

4. STATE OF KERALA,
REPRESENTED BY THE CHIEF SECRETARY,
THIRUVANANTHAPURAM.

R1 & R4 BY GOVT.PLEADER SRI C.M. KAMMAPPU

THIS WRIT PETITION (CRIMINAL) HAVING BEEN FINALLY HEARD ON 18/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXTS:

EXT.P1	TRUE COPY OF THE EXTRACT OF ADMISSION REGISTER IN THE NAME OF THE PETITIONER.
EXT.P2	TRUE COPY OF THE S.S.L.C. CERTIFICATE OF THE 3RD RESPONDENT.
EXT.P3	TRUE COPY OF THE PAY SLIP ISSUED BY LEELA SCOTTISH PVT. LTD. FOR THE MONTH OF AUGUST, 2007.
EXT.P4A	TRUE COPY OF THE IDENTITY CARD ISSUED BY E.S.I. CORPORATION.
EXT.P4B	TRUE COPY OF THE PHOTOGRAPH OF THE PETITIONER AND THE 3RD RESPONDENT ATTESTED BYT THE BR. MANAGER, GUINDY BRANCH OF E.S.I. CORPORATION.
EXT.P5ATOF	ORIGINAL PHOTOGRAPHS TAKEN ON THE OCCASION OF "SEEMANTHA KALYANAM" OF THE 3RD RESPONDENT.

P.R.RAMAN & V.K.MOHANAN, JJ.

W.P.(Crl)NO.211 OF 2007

Dated this the 18th day of September, 2007

JUDGMENT

Raman, J.

In the above writ petition notice by special messenger was ordered and a direction was issued to the 2nd respondent to be present in Court along with the detenu, if she is in his custody. The lst respondent Circle Inspector of police was directed to ensure compliance of this order and accordingly, the matter was posted to 20/9/2007. However, today morning, the learned Government Pleader appearing for the State submitted that the girl has been traced out and a permission be granted to produce the girl before the Court. After giving notice to the counsel appearing for the petitioner, the case was called at 1.45 p.m. in chambers. Since all the parties present, we dispose of the matter as follows:

2. This habeas corpus writ petition was filed by one Babu alleging that his wife, the 3rd respondent herein, is under the illegal custody of the 2nd respondent. It is averred that the petitioner is a Hindu by religion, who married the 3rd respondent, a Muslim girl.

They were neighbours and they fell in love with each other. After attaining the majority of the 3rd respondent, they got married at the Temple at Chennai on 28/6/2007. To prove the age of the alleged detenu as well as that of the petitioner, the petitioner has produced an extract of the admission register, Ext.P1, which shows that the petitioner's date of birth is 2/2/1979 and that of the 3rd respondent is 27/3/1988. Both of them thus attained majority.

3. It is the case of the petitioner that while they were at Madras, the 2nd respondent along with certain other persons came to the abode of the petitioner and insisted him to convert into Muslim religion and forcefully took the 3rd respondent from his custody and companionship. The petitioner stated that he is not willing to convert into Islam. After the 3rd respondent was thus taken away by the 2nd respondent and his men, no contact could be established with the 3rd respondent. In the circumstances, this writ petition is filed.

4. The 2nd respondent also appeared before us. He denied the allegation that the 3rd respondent was forcefully taken by him and his men. On the other hand, according to him, there was a settlement talk and the 3rd respondent agreed to go with her father and since she did not turn up, he took her and went to Coimbatore at the residence of his wife. He

has no intention to illegally detain the 3rd respondent as alleged in the writ petition.

5. We interacted with the alleged detenu (3rd respondent) and she stated that she was taken to Coimbatore by the relatives of the 2nd respondent and that she wanted to go with her husband, the petitioner herein. She also stated that she is not a free person at Coimbatore. It is not necessary in the facts and circumstances of the case, to record any finding as to whether which version of the petitioner or that of the 2nd respondent is true as regards the taking away of the 3rd respondent from the companionship of the petitioner from Madras. However, the 3rd respondent appeared before us and stated that she has married the petitioner and that she is pregnant and she has expressed her desire to go with the petitioner. In the circumstances, since the 3rd respondent is a major, she is set free.

Writ Petition is closed.

P.R.RAMAN,
Judge.

V.K.MOHANAN,
Judge.

kcv.